



UNITED STATES SENATE  
WASHINGTON, D.C. 20510

November 30, 2012

The Honorable Jon Leibowitz  
Chairman  
Federal Trade Commission  
601 New Jersey Avenue, NW  
Washington, D.C. 20580

Dear Mr. Leibowitz,

I am writing to ask that the FTC investigate reports that telemarketers operating on behalf of well-respected charities are employing deceptive tactics to induce individuals to donate money that is kept mostly, and sometimes entirely, by the telemarketer.<sup>1</sup> These practices are unethical and in some circumstances may be illegal. I ask that the FTC investigate these reports and, if appropriate, take action against those who are violating the law.

According to a report in *Bloomberg Markets Magazine*, in 2010 one telemarketer, InfoCision Management Corporation, collected \$5.3 million for the American Cancer Society (ACS) by soliciting hundreds of thousands of volunteers to donate or fundraise. Yet according to ACS tax filings from 2010, “none of that money— not one penny—went to fund cancer research or help patients.”<sup>2</sup> In fact, the filings showed that in addition to keeping the full fundraised amount, InfoCision was paid \$113,006 in fees by the ACS.

These telemarketers use scripts approved by the charities to mislead potential donors about how much fundraised money the charities keep. For instance, during an ACS campaign in 2010, InfoCision employees told potential donors that “seventy-eight cents of every dollar” would go to the ACS.<sup>3</sup> In fact, InfoCision kept 100 percent of the funds raised. The American Diabetes Association (ADA) approved a similar script in 2010 stating that “overall, about 75 percent of every dollar received goes directly to serving people with diabetes and their families.”<sup>4</sup> The same year, InfoCision’s contract with the ADA provided the ADA would keep

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<sup>1</sup> David Evans, *Charities Deceive Donors Unaware Money Goes to a Telemarketer*, BLOOMBERG MARKETS MAGAZINE, Sep. 12, 2012, <http://www.bloomberg.com/news/2012-09-12/charities-deceive-donors-unaware-money-goes-to-a-telemarketer.html>. See also *When Telemarketers Pocket Money Meant for Charity*, Sep. 12, 2012, NPR.ORG, <http://www.npr.org/2012/09/12/160997044/when-telemarketers-pocket-money-meant-for-charity>.

<sup>2</sup> See Evans, n. 1.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

just 15 percent of the funds raised. In the words of one volunteer made aware of these facts, "it's like they stabbed you in the back. It's terribly wrong."<sup>5</sup>

Deceptive statements by telemarketers are illegal under the Telemarketing and Consumer Fraud and Abuse Prevention Act ("TCFAPA").<sup>6</sup> FTC rules implementing this law declare it a deceptive act for any telemarketer to "mak[e] a false or misleading statement to...induce a charitable contribution."<sup>7</sup> Telemarketers like Infocision are employed by charities and use charity-approved scripts to induce consumers to donate. The scripts are misleading, stating that 70 to 75 percent of funds raised go directly to the charities when the actual number is far less. The statements are made for the purpose of inducing potential donors to make a charitable donation.

I urge the FTC to investigate whether telemarketers like InfoCision are violating the TCFAPA by making misleading statements to induce charitable contributions. I look forward to your response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Blumenthal".

Richard Blumenthal  
United States Senate

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<sup>5</sup> *Id.*

<sup>6</sup> 15 U.S.C. 6102(a)(3).

<sup>7</sup> 16 C.F.R. 310.3(a)(4).